

a note under section 401 of Title 50, War and National Defense.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112-29, set out as a note under section 2 of this title.

### § 211. Relationship to antitrust laws

Nothing in this chapter shall be deemed to convey to any person immunity from civil or criminal liability, or to create any defenses to actions, under any antitrust law.

(Added Pub. L. 96-517, §6(a), Dec. 12, 1980, 94 Stat. 3027.)

### § 212. Disposition of rights in educational awards

No scholarship, fellowship, training grant, or other funding agreement made by a Federal agency primarily to an awardee for educational purposes will contain any provision giving the Federal agency any rights to inventions made by the awardee.

(Added Pub. L. 98-620, title V, §501(14), Nov. 8, 1984, 98 Stat. 3368.)

## PART III—PATENTS AND PROTECTION OF PATENT RIGHTS

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#### AMENDMENT OF ANALYSIS

*Pub. L. 112-29, §§6(b), 35, Sept. 16, 2011, 125 Stat. 304, 341, provided that, effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to any patent issued on or after that effective date, this analysis is amended by striking the item relating to chapter 31 and inserting the following:*

<b>31.</b>	<b>Inter Partes Review .....</b>	<b>311</b>
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*See 2011 Amendment note below.*

#### AMENDMENTS

2011—Pub. L. 112-29, §6(b), (e), Sept. 16, 2011, 125 Stat. 304, 311, added items for chapters 31 and 32 and struck out former item for chapter 31 “Optional Inter Partes Reexamination of Patents”.

2002—Pub. L. 107-273, div. C, title III, §13206(a)(17), Nov. 2, 2002, 116 Stat. 1905, inserted a comma after “Patent” in item for chapter 29.

1999—Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4604(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-570, as amended by Pub. L. 107-273, div. C, title III, §13202(c)(2), Nov. 2, 2002, 116 Stat. 1902, substituted “Ex Parte Reexamination of Patents” for “Reexamination of Patents” in item for chapter 30 and added item for chapter 31.

<sup>1</sup> So in original. Does not conform to chapter heading.

1982—Pub. L. 97-256, title I, §101(7), Sept. 8, 1982, 96 Stat. 816, added item for chapter 30.

## CHAPTER 25—AMENDMENT AND CORRECTION OF PATENTS

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254.	Certificate of correction of Patent and Trademark Office mistake.
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#### AMENDMENTS

2011—Pub. L. 112-29, §12(b), Sept. 16, 2011, 125 Stat. 327, added item 257.

2002—Pub. L. 107-273, div. C, title III, §13206(a)(18), Nov. 2, 2002, 116 Stat. 1905, substituted “Correction of named inventor” for “Misjoinder of inventor” in item 256.

1975—Pub. L. 93-596, §1, Jan. 2, 1975, 88 Stat. 1949, substituted “Patent and Trademark Office” for “Patent Office” in item 254.

### § 251. Reissue of defective patents

Whenever any patent is, through error without any deceptive intention, deemed wholly or partly inoperative or invalid, by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than he had a right to claim in the patent, the Director shall, on the surrender of such patent and the payment of the fee required by law, reissue the patent for the invention disclosed in the original patent, and in accordance with a new and amended application, for the unexpired part of the term of the original patent. No new matter shall be introduced into the application for reissue.

The Director may issue several reissued patents for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued patents.

The provisions of this title relating to applications for patent shall be applicable to applications for reissue of a patent, except that application for reissue may be made and sworn to by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent.

No reissued patent shall be granted enlarging the scope of the claims of the original patent unless applied for within two years from the grant of the original patent.

(July 19, 1952, ch. 950, 66 Stat. 808; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, §13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906; Pub. L. 112-29, §§4(b)(2), 20(d), Sept. 16, 2011, 125 Stat. 296, 333.)

#### AMENDMENT OF SECTION

*Pub. L. 112-29, §20(d), (l), Sept. 16, 2011, 125 Stat. 333, 335, provided that, effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, this section is amended:*

(1) in the first undesignated paragraph—  
 (A) by striking “Whenever” and inserting  
 “(a) IN GENERAL.—Whenever”; and  
 (B) by striking “without any deceptive inten-  
 tion”;

(2) in the second undesignated paragraph, by  
 striking “The Director” and inserting “(b)  
 MULTIPLE REISSUED PATENTS.—The Director”;

(3) in the third undesignated paragraph, by  
 striking “The provisions” and inserting “(c)  
 APPLICABILITY OF THIS TITLE.—The provi-  
 sions”; and

(4) in the last undesignated paragraph, by  
 striking “No reissued patent” and inserting  
 “(d) REISSUE PATENT ENLARGING SCOPE OF  
 CLAIMS.—No reissued patent”.

See 2011 Amendment note below.

Pub. L. 112–29, § 4(b)(2), (e), Sept. 16, 2011, 125 Stat. 296, 297, provided that, effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to any patent application that is filed on or after that effective date, this section is amended in the third undesignated paragraph by inserting “or the application for the original patent was filed by the assignee of the entire interest” after “claims of the original patent”. See 2011 Amendment note below.

#### HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 64 (R.S. 4916, amended May 24, 1928, ch. 730, 45 Stat. 732.)

The sentences of the corresponding section of existing statute are rearranged and divided into two sections with some changes in language. The clause at the end of the present statute is omitted as obsolete.

The third paragraph incorporates by reference the requirements of other applications, and adds a new provision relating to application for reissue being made in certain cases by the assignee.

A two year period of limitation on applying for broadened reissues is added, codifying the present rule of decision with a fixed period.

#### AMENDMENTS

2011—Pub. L. 112–29, § 20(d), designated first to fourth pars. as subsecs. (a) to (d), respectively, inserted headings, and in subsec. (a), struck out “without any deceptive intention” after “error”.

Pub. L. 112–29, § 4(b)(2), in third par., inserted “or the application for the original patent was filed by the assignee of the entire interest” after “claims of the original patent”.

2002—Pub. L. 107–273 made technical correction to directory language of Pub. L. 106–113. See 1999 Amendment note below.

1999—Pub. L. 106–113, as amended by Pub. L. 107–273, substituted “Director” for “Commissioner” in first and second pars.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 4(b)(2) of Pub. L. 112–29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to any patent application that is filed on or after that effective date, see section 4(e) of Pub. L. 112–29, set out as a note under section 111 of this title.

Amendment by section 20(d) of Pub. L. 112–29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112–29, set out as a note under section 2 of this title.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731]

of Pub. L. 106–113, set out as a note under section 1 of this title.

#### § 252. Effect of reissue

The surrender of the original patent shall take effect upon the issue of the reissued patent, and every reissued patent shall have the same effect and operation in law, on the trial of actions for causes thereafter arising, as if the same had been originally granted in such amended form, but in so far as the claims of the original and reissued patents are substantially identical, such surrender shall not affect any action then pending nor abate any cause of action then existing, and the reissued patent, to the extent that its claims are substantially identical with the original patent, shall constitute a continuation thereof and have effect continuously from the date of the original patent.

A reissued patent shall not abridge or affect the right of any person or that person’s successors in business who, prior to the grant of a reissue, made, purchased, offered to sell, or used within the United States, or imported into the United States, anything patented by the reissued patent, to continue the use of, to offer to sell, or to sell to others to be used, offered for sale, or sold, the specific thing so made, purchased, offered for sale, used, or imported unless the making, using, offering for sale, or selling of such thing infringes a valid claim of the reissued patent which was in the original patent. The court before which such matter is in question may provide for the continued manufacture, use, offer for sale, or sale of the thing made, purchased, offered for sale, used, or imported as specified, or for the manufacture, use, offer for sale, or sale in the United States of which substantial preparation was made before the grant of the reissue, and the court may also provide for the continued practice of any process patented by the reissue that is practiced, or for the practice of which substantial preparation was made, before the grant of the reissue, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant of the reissue.

(July 19, 1952, ch. 950, 66 Stat. 808; Pub. L. 103–465, title V, § 533(b)(2), Dec. 8, 1994, 108 Stat. 4989; Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4507(8)], Nov. 29, 1999, 113 Stat. 1536, 1501A–566.)

#### HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 64 (R.S. 4916, amended May 24, 1928, ch. 730, 45 Stat. 732.)

The first paragraph follows the present section with some rearrangement in language. The second paragraph adds new provisions for the protection of intervening rights, the court is given discretion to protect legitimate activities which would be adversely affected by the grant of a reissue and things made before the grant of the reissue are not subject to the reissue unless a claim of the original patent which is repeated in the reissue is infringed.

#### AMENDMENTS

1999—Pub. L. 106–113 inserted “substantially” before “identical” in two places in first par.

1994—Pub. L. 103–465 amended second par. generally. Prior to amendment, second par. read as follows: “No reissued patent shall abridge or affect the right of any

person or his successors in business who made, purchased or used prior to the grant of a reissue anything patented by the reissued patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased or used, unless the making, using or selling of such thing infringes a valid claim of the reissued patent which was in the original patent. The court before which such matter is in question may provide for the continued manufacture, use or sale of the thing made, purchased or used as specified, or for the manufacture, use or sale of which substantial preparation was made before the grant of the reissue, and it may also provide for the continued practice of any process patented by the reissue, practice, or for the practice of which substantial preparation was made, prior to the grant of the reissue, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant of the reissue."

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective Nov. 29, 2000, and applicable only to applications (including international applications designating the United States) filed on or after that date, see section 1000(a)(9) [title IV, § 4508] of Pub. L. 106-113, as amended, set out as a note under section 10 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on date that is one year after date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], with provisions relating to earliest filed patent application, see section 534(a), (b)(3) of Pub. L. 103-465, set out as a note under section 154 of this title.

### § 253. Disclaimer

Whenever, without any deceptive intention, a claim of a patent is invalid the remaining claims shall not thereby be rendered invalid. A patentee, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of any complete claim, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, and recorded in the Patent and Trademark Office; and it shall thereafter be considered as part of the original patent to the extent of the interest possessed by the disclaimant and by those claiming under him.

In like manner any patentee or applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted or to be granted.

(July 19, 1952, ch. 950, 66 Stat. 809; Pub. L. 93-596, § 1, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 112-29, § 20(e), Sept. 16, 2011, 125 Stat. 334.)

#### AMENDMENT OF SECTION

*Pub. L. 112-29, § 20(e), (l), Sept. 16, 2011, 125 Stat. 334, 335, provided that, effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, this section is amended:*

*(1) in the first undesignated paragraph, by striking "Whenever, without any deceptive intention," and inserting "(a) IN GENERAL.—Whenever"; and*

*(2) in the second undesignated paragraph, by striking "In like manner" and inserting "(b) ADDITIONAL DISCLAIMER OR DEDICATION.—In the manner set forth in subsection (a)."*

*See 2011 Amendment note below.*

#### HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 65 (R.S. 4917).

Language is changed and substantive changes are introduced; (1) only a claim as a whole may be disclaimed, and (2) the provision regarding delay is omitted. See preliminary general description of bill.

See section 288.

The second paragraph is new and provides for the disclaiming or dedication of an entire patent, or any terminal part of the term, for example, a patentee may disclaim the last three years of the term of his patent.

#### AMENDMENTS

2011—Pub. L. 112-29 designated first and second pars. as subsecs. (a) and (b), respectively, inserted headings, in subsec. (a) substituted "Whenever" for "Whenever, without any deceptive intention," and in subsec. (b) substituted "In the manner set forth in subsection (a)," for "In like manner".

1975—Pub. L. 93-596 substituted "Patent and Trademark Office" for "Patent Office".

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112-29, set out as a note under section 2 of this title.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-596 effective Jan. 2, 1975, see section 4 of Pub. L. 93-596, set out as a note under section 1111 of Title 15, Commerce and Trade.

### § 254. Certificate of correction of Patent and Trademark Office mistake

Whenever a mistake in a patent, incurred through the fault of the Patent and Trademark Office, is clearly disclosed by the records of the Office, the Director may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. A printed copy thereof shall be attached to each printed copy of the patent, and such certificate shall be considered as part of the original patent. Every such patent, together with such certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. The Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction.

(July 19, 1952, ch. 950, 66 Stat. 809; Pub. L. 93-596, § 1, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)

#### HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., § 88 (Mar. 4, 1925, ch. 535, § 1, 43 Stat. 1268).

The last sentence of the present section is omitted as obsolete. A sentence is added similar to a provision in the corresponding section in the trade-mark law, 15 U.S.C., 1946 ed., § 1057(f), and provides that the Commissioner may issue a corrected patent instead of a certificate of correction.

#### AMENDMENTS

2002—Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner” in two places.

1975—Pub. L. 93-596 substituted “Patent and Trade-mark Office” for “Patent Office” in section catchline and text.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-596 effective Jan. 2, 1975, see section 4 of Pub. L. 93-596, set out as a note under section 1111 of Title 15, Commerce and Trade.

### § 255. Certificate of correction of applicant's mistake

Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Director may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

(July 19, 1952, ch. 950, 66 Stat. 809; Pub. L. 93-596, §1, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, §13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)

#### HISTORICAL AND REVISION NOTES

This section providing for the correction of minor clerical errors made by the applicant, is new and follows a similar provision in the trade-mark law, 15 U.S.C., 1946 ed., §1057(g).

#### AMENDMENTS

2002—Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

1975—Pub. L. 93-596 substituted “Patent and Trade-mark Office” for “Patent Office”.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-596 effective Jan. 2, 1975, see section 4 of Pub. L. 93-596, set out as a note under section 1111 of Title 15, Commerce and Trade.

### § 256. Correction of named inventor

Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive

intention on his part, the Director may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate correcting such error.

The error of omitting inventors or naming persons who are not inventors shall not invalidate the patent in which such error occurred if it can be corrected as provided in this section. The court before which such matter is called in question may order correction of the patent on notice and hearing of all parties concerned and the Director shall issue a certificate accordingly.

(July 19, 1952, ch. 950, 66 Stat. 810; Pub. L. 97-247, §6(b), Aug. 27, 1982, 96 Stat. 320; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, §13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906; Pub. L. 112-29, §20(f), Sept. 16, 2011, 125 Stat. 334.)

#### AMENDMENT OF SECTION

*Pub. L. 112-29, §20(f), (l), Sept. 16, 2011, 125 Stat. 334, 335, provided that, effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, this section is amended:*

*(1) in the first undesignated paragraph—*

*(A) by striking “Whenever” and inserting “(a) CORRECTION.—Whenever”; and*

*(B) by striking “and such error arose without any deceptive intention on his part”; and*

*(2) in the second undesignated paragraph, by striking “The error” and inserting “(b) PATENT VALID IF ERROR CORRECTED.—The error”.*

*See 2011 Amendment note below.*

#### HISTORICAL AND REVISION NOTES

This section is new and is companion to section 116.

The first two paragraphs provide for the correction of the inadvertent joining or nonjoining of a person as a joint inventor. The third paragraph provides that a patent shall not be invalid for such cause, and also provides that a court may order correction of a patent; the two sentences of this paragraph are independent.

#### AMENDMENTS

2011—Pub. L. 112-29 designated first and second pars. as subsecs. (a) and (b), respectively, inserted headings, and in subsec. (a) struck out “and such error arose without any deceptive intention on his part” after “not named in an issued patent”.

2002—Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner” in two places.

1982—Pub. L. 97-247 substituted “Correction of named inventor” for “Misjoinder of inventor” as section catchline and, in text, substituted “Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his part, the Commissioner may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate correcting such error” for “Whenever a patent is issued on the application of persons as joint inventors and it appears that one of such persons was not in fact a joint inventor, and that he was included as a joint inventor by error and without

any deceptive intention, the Commissioner may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate deleting the name of the erroneously joined person from the patent", substituted "The error of omitting inventors or naming persons who are not inventors shall not invalidate the patent in which such error occurred if it can be corrected as provided in this section" for "Whenever a patent is issued and it appears that a person was a joint inventor, but was omitted by error and without deceptive intention on his part, the Commissioner may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate adding his name to the patent as a joint inventor", and struck out provision that the misjoinder or nonjoinder of joint inventors not invalidate a patent, if such error could be corrected as provided in this section.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112-29, set out as a note under section 2 of this title.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Aug. 27, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-247 effective six months after Aug. 27, 1982, see section 17(c) of Pub. L. 97-247, set out as an Effective Date note under section 294 of this title.

### § 257. Supplemental examinations to consider, reconsider, or correct information

(a) **REQUEST FOR SUPPLEMENTAL EXAMINATION.**—A patent owner may request supplemental examination of a patent in the Office to consider, reconsider, or correct information believed to be relevant to the patent, in accordance with such requirements as the Director may establish. Within 3 months after the date a request for supplemental examination meeting the requirements of this section is received, the Director shall conduct the supplemental examination and shall conclude such examination by issuing a certificate indicating whether the information presented in the request raises a substantial new question of patentability.

(b) **REEXAMINATION ORDERED.**—If the certificate issued under subsection (a) indicates that a substantial new question of patentability is raised by 1 or more items of information in the request, the Director shall order reexamination of the patent. The reexamination shall be conducted according to procedures established by chapter 30, except that the patent owner shall not have the right to file a statement pursuant to section 304. During the reexamination, the Director shall address each substantial new question of patentability identified during the supplemental examination, notwithstanding the limitations in chapter 30 relating to patents and printed publication or any other provision of such chapter.

(c) **EFFECT.**—

(1) **IN GENERAL.**—A patent shall not be held unenforceable on the basis of conduct relating

to information that had not been considered, was inadequately considered, or was incorrect in a prior examination of the patent if the information was considered, reconsidered, or corrected during a supplemental examination of the patent. The making of a request under subsection (a), or the absence thereof, shall not be relevant to enforceability of the patent under section 282.

(2) **EXCEPTIONS.**—

(A) **PRIOR ALLEGATIONS.**—Paragraph (1) shall not apply to an allegation pled with particularity in a civil action, or set forth with particularity in a notice received by the patent owner under section 505(j)(2)(B)(iv)(II) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(2)(B)(iv)(II)), before the date of a supplemental examination request under subsection (a) to consider, reconsider, or correct information forming the basis for the allegation.

(B) **PATENT ENFORCEMENT ACTIONS.**—In an action brought under section 337(a) of the Tariff Act of 1930 (19 U.S.C. 1337(a)), or section 281, paragraph (1) shall not apply to any defense raised in the action that is based upon information that was considered, reconsidered, or corrected pursuant to a supplemental examination request under subsection (a), unless the supplemental examination, and any reexamination ordered pursuant to the request, are concluded before the date on which the action is brought.

(d) **FEES AND REGULATIONS.**—

(1) **FEES.**—The Director shall, by regulation, establish fees for the submission of a request for supplemental examination of a patent, and to consider each item of information submitted in the request. If reexamination is ordered under subsection (b), fees established and applicable to ex parte reexamination proceedings under chapter 30 shall be paid, in addition to fees applicable to supplemental examination.

(2) **REGULATIONS.**—The Director shall issue regulations governing the form, content, and other requirements of requests for supplemental examination, and establishing procedures for reviewing information submitted in such requests.

(e) **FRAUD.**—If the Director becomes aware, during the course of a supplemental examination or reexamination proceeding ordered under this section, that a material fraud on the Office may have been committed in connection with the patent that is the subject of the supplemental examination, then in addition to any other actions the Director is authorized to take, including the cancellation of any claims found to be invalid under section 307 as a result of a reexamination ordered under this section, the Director shall also refer the matter to the Attorney General for such further action as the Attorney General may deem appropriate. Any such referral shall be treated as confidential, shall not be included in the file of the patent, and shall not be disclosed to the public unless the United States charges a person with a criminal offense in connection with such referral.

(f) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed—

(1) to preclude the imposition of sanctions based upon criminal or antitrust laws (including section 1001(a) of title 18, the first section of the Clayton Act, and section 5 of the Federal Trade Commission Act to the extent that section relates to unfair methods of competition);

(2) to limit the authority of the Director to investigate issues of possible misconduct and impose sanctions for misconduct in connection with matters or proceedings before the Office; or

(3) to limit the authority of the Director to issue regulations under chapter 3 relating to sanctions for misconduct by representatives practicing before the Office.

(Added and amended Pub. L. 112-29, §§12(a), 20(j), Sept. 16, 2011, 125 Stat. 325, 335.)

#### REFERENCES IN TEXT

The first section of the Clayton Act, referred to in subsec. (f)(1), is classified to section 12 of Title 15, Commerce and Trade, and section 53 of Title 29, Labor.

Section 5 of the Federal Trade Commission Act, referred to in subsec. (f)(1), is classified to section 45 of Title 15, Commerce and Trade.

#### AMENDMENTS

2011—Subsec. (c)(2)(B). Pub. L. 112-29, §20(j), struck out “of this title” after “281”.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 20(j) of Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112-29, set out as a note under section 2 of this title.

#### EFFECTIVE DATE

Pub. L. 112-29, §12(c), Sept. 16, 2011, 125 Stat. 327, provided that: “The amendments made by this section [enacting this section] shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act [Sept. 16, 2011] and shall apply to any patent issued before, on, or after that effective date.”

### CHAPTER 26—OWNERSHIP AND ASSIGNMENT

Sec.	
261.	Ownership; assignment.
262.	Joint owners.

#### § 261. Ownership; assignment

Subject to the provisions of this title, patents shall have the attributes of personal property.

Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or, in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, or apostille of

an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States, shall be prima facie evidence of the execution of an assignment, grant or conveyance of a patent or application for patent.

An assignment, grant or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent and Trademark Office within three months from its date or prior to the date of such subsequent purchase or mortgage.

(July 19, 1952, ch. 950, 66 Stat. 810; Pub. L. 93-596, §1, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 97-247, §14(b), Aug. 27, 1982, 96 Stat. 321.)

#### HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §47 (R.S. 4898, amended (1) Mar. 3, 1897, ch. 391, §5, 29 Stat. 93, (2) Feb. 18, 1922, ch. 58, §6, 42 Stat. 391, (3) Aug. 18, 1941, ch. 370, 55 Stat. 634).

The first paragraph is new but is declaratory only. The second paragraph is the same as in the corresponding section of existing statute. The third paragraph is from the existing statute, a specific reference to another statute is omitted. The fourth paragraph is the same as the existing statute but language has been changed.

#### AMENDMENTS

1982—Pub. L. 97-247 inserted “, or apostille of an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States”.

1975—Pub. L. 93-596 substituted “Patent and Trademark Office” for “Patent Office”.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-247 effective Aug. 27, 1982, see section 17(a) of Pub. L. 97-247, set out as a note under section 41 of this title.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-596 effective Jan. 2, 1975, see section 4 of Pub. L. 93-596, set out as a note under section 1111 of Title 15, Commerce and Trade.

#### § 262. Joint owners

In the absence of any agreement to the contrary, each of the joint owners of a patent may make, use, offer to sell, or sell the patented invention within the United States, or import the patented invention into the United States, without the consent of and without accounting to the other owners.

(July 19, 1952, ch. 950, 66 Stat. 810; Pub. L. 103-465, title V, §533(b)(3), Dec. 8, 1994, 108 Stat. 4989.)

#### HISTORICAL AND REVISION NOTES

This section states a condition in existing law not expressed in the existing statutes.

#### AMENDMENTS

1994—Pub. L. 103-465 substituted “use, offer to sell, or sell” for “use or sell” and inserted “within the United States, or import the patented invention into the United States,” after “invention”.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on date that is one year after date on which the WTO Agreement en-